IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3984 OF 2007

Chief Officer, ... Petitioner
Vita Municipal Council.

Vs.

Smt. Dagadabai Bhagwan Sabale .... Respondent
Vita, Tal.Khanapur, Dist.Sangli

Mr. Nandu Pawar for Petitioner.
Mr. Umesh Mankapure for Respondent no. 1
Mr. S.R. Chinchlikar, AGP for Respondent nos. 2 and 3.

CORAM : SMT. NISHITA MHATRE, J.
DATE : 10TH OCTOBER, 2007

P.C.

1) The Petitioner challenges the order of the Industrial Court passed in Complaint (U.L.P.) No. 14 of 1997 on 16th January 2006 which order has been passed in a complaint filed under Item 6, 9 and 10 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971. The Industrial Court has granted the complaint by holding that the petitioner had committed an unfair labour practice under Item 6 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971. The petitioner has been directed to grant the benefits of permanency w.e.f. 11th January 1993 to the Respondent-workman.

2) The main contention of the petitioner is that there was no sanctioned post available and

therefore the Respondent-workman cannot be made permanent. It is submitted that after the Respondent-workman was reinstated in service in the year 1990 pursuant to the order of the Labour Court, the Council passed a Resolution on 11th January 1993 in order to absorb the Respondent-workman in permanent service. It appears that thereafter the proposal was submitted to the Director, Municipal Council, Administration Directorate, Pune on 8th May 2000 for sanction. The Industrial Court has observed and in my view rightly, that there was evidence on record to show that other employees who were similarly situated had been made permanent by the petitioner. It was also observed that the petitioner had not adduced any evidence before it and in fact had not appeared before the Court.

3) Notice was issued to the Director of Municipal Administration and the State of Maharashtra in order to ascertain as to whether the proposal of the petitioner submitted in the year 2000 had been sanctioned by them. No Affidavit has been filed by the added Respondents though directed by this Court.

4) In my view, there is no need to interfere with the order passed by the Industrial Court. On

the basis of submissions made before the Industrial Court, it has found that the petitioner had wrongly deprived the Respondent- workman of the benefits of permanency after she was reinstated in service in 1990. It is surprising that the petitioner did not bother to take any steps for three years after the order of Labour Court. Even after the Resolution was passed by the Petitioner in 1993, the proposal was sent for regularisation only in 2000. Since no action in the matter has been taken, the order of the Industrial Court need not be interfered. The Respondent-workman is entitled to the benefits of permanency as held by the Industrial Court.

5) Petition is rejected.

(SMT. NISHITA MHATRE, J.)